

**[§ 3402. Repealed. Pub. L. 96-70, title I, § 1331(e)(3)(A), Sept. 27, 1979, 93 Stat. 482]**

Section, Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 757, related to mailing privileges of members of Armed Forces of the United States and of friendly foreign nations in the Canal Zone.

**EFFECTIVE DATE OF REPEAL**

Repeal effective Oct. 1, 1979, see section 3304 of Pub. L. 96-70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

**§ 3403. Matter for blind and other handicapped persons**

(a) The matter described in subsection (b) of this section (other than matter mailed under section 3404 of this title) may be mailed free of postage, if—

(1) the matter is for the use of the blind or other persons who cannot use or read conventionally printed material because of a physical impairment and who are certified by competent authority as unable to read normal reading material in accordance with the provisions of sections 135a and 135b of title 2;

(2) no charge, or rental, subscription, or other fee, is required for such matter or a charge, or rental, subscription, or other fee is required for such matter not in excess of the cost thereof;

(3) the matter may be opened by the Postal Service for inspection; and

(4) the matter contains no advertising.

(b) The free mailing privilege provided by subsection (a) of this section is extended to—

(1) reading matter and musical scores;

(2) sound reproductions;

(3) paper, records, tapes, and other material for the production of reading matter, musical scores, or sound reproductions;

(4) reproducers or parts thereof, for sound reproductions; and

(5) braille writers, typewriters, educational or other materials or devices, or parts thereof, used for writing by, or specifically designed or adapted for use of, a blind person or a person having a physical impairment as described in subsection (a)(1) of this section.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 757.)

**§ 3404. Unsealed letters sent by blind or physically handicapped persons**

Unsealed letters sent by a blind person or a person having a physical impairment, as described in section 3403(a)(1) of this title, in raised characters or sightsaving type, or in the form of sound recordings, may be mailed free of postage.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 758.)

**§ 3405. Markings**

All matter relating to blind or other handicapped persons mailed under section 3403 or 3404 of this title, shall bear the words “Free Matter for the Blind or Handicapped”, or words to that effect specified by the Postal Service, in the upper right-hand corner of the address area.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 758.)

**§ 3406. Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act**

(a) Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act (individually or in bulk)—

(1) shall be carried expeditiously and free of postage; and

(2) may be mailed at a post office established outside the United States under section 406 of this title, unless such mailing is prohibited by treaty or other international agreement of the United States.

(b) As used in this section, the term “balloting materials” has the meaning given that term in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act.

(Added Pub. L. 99-410, title II, § 201(a), Aug. 28, 1986, 100 Stat. 928.)

**REFERENCES IN TEXT**

The Uniformed and Overseas Citizens Absentee Voting Act, referred to in text, is Pub. L. 99-410, Aug. 28, 1986, 100 Stat. 924, as amended, which is classified principally to subchapter I-G (§1973ff et seq.) of chapter 20 of Title 42, The Public Health and Welfare. Section 107 of that Act is classified to section 1973ff-6 of Title 42. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 1971 of Title 42 and Tables.

**EFFECTIVE DATE**

Section applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99-410, set out as a note under section 1973ff of Title 42, The Public Health and Welfare.

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## AMENDMENTS

1998—Pub. L. 105-277, div. A, § 101(h) [title VI, § 648(b)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-528, added item 3663.

1993—Pub. L. 103-123, title VII, § 704(a)(3)(B)(ii), Oct. 28, 1993, 107 Stat. 1270, substituted “free rates” for “free and reduced rates” in item 3627 and added item 3642.

Pub. L. 103-31, § 8(h)(4), May 20, 1993, 107 Stat. 86, added item 3629.

SUBCHAPTER I—POSTAL RATE  
COMMISSION**§ 3601. Establishment**

(a) The Postal Rate Commission is an independent establishment of the executive branch of the Government of the United States. The Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen on the basis of their professional qualifications and may be removed by the President only for cause. Not more than 3 of the Commissioners may be adherents of the same political party.

(b) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under section 3602 of this title.

(c) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

(d) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 759; Pub. L. 94-421, § 3(a), Sept. 24, 1976, 90 Stat. 1304; Pub. L. 103-123, title VII, § 708(c), Oct. 28, 1993, 107 Stat. 1273.)

## AMENDMENTS

1993—Subsec. (a). Pub. L. 103-123 substituted “consent” for “concent”.

1976—Pub. L. 94-421 designated existing provisions as subsec. (a), required that appointments by the President be subject to Senate confirmation, substituted provision permitting the President to remove commissioners for cause for provision which required a Civil Service Commission hearing for removal, and added subsecs. (b) to (d).

## EFFECTIVE DATE

Subchapter effective Aug. 12, 1970, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

POSTAL RATE COMMISSIONER HOLDING OFFICE ON  
SEPTEMBER 24, 1976

Section 3(b) of Pub. L. 94-421 provided that: “The provisions of section 3601(a) of title 39, United States Code, as amended by subsection (a) of this section, shall not apply with respect to any Commissioner of the Postal Rate Commission holding office on the date of the enactment of this Act [Sept. 24, 1976], except that such provisions shall apply to any appointment of such a Commissioner occurring after the date of the enactment of this Act.”

**§ 3602. Terms of office**

The Commissioners of the Postal Rate Commission shall serve for terms of 6 years except that—

(1) the terms of the Commissioners first taking office shall expire as designated by the President at the time of appointment, 1 at the end of 2 years, 2 at the end of 4 years, and 2 at the end of 6 years, following the appointment of the first of them; and

(2) any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 759.)

**§ 3603. Rules; regulations; procedures**

The Postal Rate Commission shall promulgate rules and regulations and establish procedures, subject to chapters 5 and 7 of title 5, and take any other action they deem necessary and proper to carry out their functions and obligations to the Government of the United States and the people as prescribed under this chapter. Such rules, regulations, procedures, and actions shall not be subject to any change or supervision by the Postal Service.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 759.)

**§ 3604. Administration**

(a) The Chairman of the Postal Rate Commission shall be the principal executive officer of the Commission. The Chairman shall exercise or direct the exercise of all the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment of personnel employed under the Commission, except that the appointment of heads of major administrative units under the Commission shall require the approval of a majority of the members of the Commission, (2) the supervision of the personnel employed under the Commission and the distribution of business among them and among the Commissioners, and (3) the use and expenditure of funds.

(b) In carrying out any of his functions under this section, the Chairman shall be governed by the general policies of the Commission.

(c) The Chairman may obtain such facilities and supplies as may be necessary to permit the Commission to carry out its functions. Any officer or employee appointed under this section shall be paid at rates of compensation and shall be entitled to programs offering employee benefits established under chapter 10 or chapter 12 of this title, as appropriate.

(d)(1) The Commission shall periodically prepare and submit to the Postal Service a budget of the Commission's expenses, including, but not limited to, expenses for facilities, supplies, compensation, and employee benefits. The budget shall be considered approved—

(A) as submitted if the Governors fail to act in accordance with subparagraph (B) of this paragraph; or

(B) as adjusted if the Governors holding office, by unanimous written decision, adjust the total amount of money requested in the budget.

Subparagraph (B) shall not be construed to authorize the Governors to adjust any item included within the budget.

(2) Expenses incurred under any budget approved under paragraph (1) of this subsection shall be paid out of the Postal Service fund established under section 2003 of this title.

(e) The provisions of section 410 and chapter 10 of this title shall apply to the Commission, as appropriate.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 759; Pub. L. 94-421, § 4, Sept. 24, 1976, 90 Stat. 1305.)

#### AMENDMENTS

1976—Subsec. (a). Pub. L. 94-421 increased the authority of the Chairman to the exercise of all executive and administrative functions, including appointment of personnel and control over use and expenditure of funds, and struck out requirement that all final acts of the Commissioners be by a vote of an absolute majority.

Subsec. (b). Pub. L. 94-421 added subsec. (b). Former subsec. (b) redesignated (c) and amended.

Subsec. (c). Pub. L. 94-421 redesignated former subsec. (b) as (c), transferred authority to obtain facilities and supplies from the Commission to the chairman, and struck out the authority of the Commission to appoint and fix compensation of officers and employees and requiring them to be responsible to the Commissioners. Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 94-421 redesignated former subsecs. (c) and (d) as (d) and (e), respectively, and in subsec. (d), as so redesignated, made minor changes in phraseology.

#### EX. ORD. NO. 11570. REGULATION OF CONDUCT FOR POSTAL RATE COMMISSION AND ITS EMPLOYEES

Ex. Ord. No. 11570, Nov. 24, 1970, 35 F.R. 18183, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

Under the Postal Reorganization Act (Public Law 91-375) [this title], the Postal Rate Commission (referred to hereafter as the "Commission") is charged with the establishment and adjustment of fair and equitable rates of postage, fees for postal services, and classifications of mail. It is essential to public confidence in the United States Postal Service that the activities, procedures, decisions, and recommendations of the Commission be impartial and disinterested and free from taint or suspicion of favoritism of any kind whatsoever, both in fact and in appearance.

NOW THEREFORE, by virtue of the authority vested in me by section 301 of Title 3, and Section 7301 of Title 5, United States Code, and the Postal Reorganization Act [this title], it is hereby ordered as follows:

SECTION 101. The Commission is subject to Executive Order No. 11222 of May 8, 1965 [formerly set out as a note under section 201 of Title 18, Crimes and Criminal Procedure], "Prescribing Standards of Ethical Conduct for Government Officers and Employees," and Part 735 of the regulations of the Office of Personnel Management (5 CFR Part 735).

SEC. 102. The Office of Personnel Management shall prepare initial standards of conduct regulations for the Commission. The regulations shall contain such provisions as will ensure that the Commissioners and employees of the Commission are fully guarded against involvement in conflicts of interest situations, or the appearance thereof, or other conduct that may lessen public confidence. The regulations shall include provision for:

(a) concurrent filing of confidential statements of outside employment and financial interests by employees of the Commission with a designated official of the Commission and the Director of the Office of Personnel Management;

(b) strict control of *ex parte* contacts with the Commission and the Commissioners or employees of the

Commission regarding particular matters at issue in contested proceedings before the Commission. The control of such contacts shall include, but not be limited to, the maintenance of public records of such contacts which fully identify the individuals involved and the nature of the subject matter discussed; and

(c) prohibition against the receipt of honoraria, travel expenses, entertainment, gifts, loans, favors, or anything of value by a Commissioner or employee of the Commission from an individual (other than one having a close family or personal relationship) or organization having, or likely to have, business with the Commission.

SEC. 103. The Office of Personnel Management shall issue the initial standards of conduct regulations applicable to the Commission not later than 120 days after the effective date of this Order. Thereafter, the Office may from time to time amend the regulations, consistent with this Order. The regulations and any amendments thereto shall be published in the Federal Register.

#### SUBCHAPTER II—PERMANENT RATES AND CLASSES OF MAIL

##### § 3621. Authority to fix rates and classes

Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of this chapter. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service under honest, efficient, and economical management to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States. Postal rates and fees shall provide sufficient revenues so that the total estimated income and appropriations to the Postal Service will equal as nearly as practicable total estimated costs of the Postal Service. For purposes of this section, "total estimated costs" shall include (without limitation) operating expenses, depreciation on capital facilities and equipment, debt service (including interest, amortization of debt discount and expense, and provision for sinking funds or other retirements of obligations to the extent that such provision exceeds applicable depreciation charges), and a reasonable provision for contingencies.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 760.)

#### EFFECTIVE DATE

Subchapter effective Jan. 20, 1971, pursuant to Resolution No. 71-10 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

#### RATEMAKING LIMITATIONS

Pub. L. 103-123, title VII, § 704(b)(2), Oct. 28, 1993, 107 Stat. 1270, provided that:

"(A) IN GENERAL.—Except as provided in subparagraph (B), rates of postage may not be established, under subchapter II of chapter 36 of title 39, United States Code, in a manner designed to allow the United States Postal Service to receive through revenues any portion of the additional revenues (referred to in section 2401(d) of such title, as amended by paragraph (1)(E)) for which amounts are authorized to be appropriated under such section 2401(d).

"(B) EXCEPTION.—If Congress fails to appropriate an amount authorized under section 2401(d) of title 39, United States Code (as amended by paragraph (1)(E)), rates for the various classes of mail may be adjusted in

accordance with the provisions of subchapter II of chapter 36 of such title (excluding section 3627 thereof) such that the resulting increase in revenues will equal the amount that Congress so failed to appropriate.”

#### CONTINUATION OF EXISTING RATES AND FEES

Section 3 of Pub. L. 91-375 provided that: “The classes of mail, the rates of postage, and fees for postal services prescribed by law or regulation made or adopted prior to the effective date [see Effective Date note set out above] of subchapter II of chapter 36 of title 39, United States Code, as enacted by section 2 of this Act, shall be in effect according to the terms of such law or regulation until changed in accordance with such subchapter.”

Provisions of section 3 of Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of this title.

### § 3622. Rates and fees

(a) From time to time the Postal Service shall request the Postal Rate Commission to submit a recommended decision on changes in a rate or rates of postage or in a fee or fees for postal services if the Postal Service determines that such changes would be in the public interest and in accordance with the policies of this title. The Postal Service may submit such suggestions for rate adjustments as it deems suitable.

(b) Upon receiving a request, the Commission shall make a recommended decision on the request for changes in rates or fees in each class of mail or type of service in accordance with the policies of this title and the following factors:

(1) the establishment and maintenance of a fair and equitable schedule;

(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

(3) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to that class or type plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

(8) the educational, cultural, scientific, and informational value to the recipient of mail matter; and

(9) such other factors as the Commission deems appropriate.

(c) Regular rates for each class or subclass of mail that includes 1 or more special rate cat-

egories for mail under former section 4358 (d) or (e), 4452 (b) or (c), or 4554 (b) or (c) of this title shall be established by applying the policies of this title, including the factors of section 3622(b) of this title, to the costs attributable to the regular rate mail in each class or subclass combined with the mail in the corresponding special rate categories authorized by former section 4358 (d) or (e), 4452 (b) or (c), or 4554 (b) or (c) of this title.

(d) Compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) shall not be considered by the Commission in determining whether to increase rates and shall not otherwise affect the service of the Postal Service.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 760; Pub. L. 94-421, §10, Sept. 24, 1976, 90 Stat. 1311; Pub. L. 105-241, §5, Sept. 28, 1998, 112 Stat. 1573; Pub. L. 106-384, §1(a), Oct. 27, 2000, 114 Stat. 1460.)

#### REFERENCES IN TEXT

Former sections 4358, 4452, and 4554 of this title, referred to in subsec. (c), mean the aforesaid sections which were classified to former Title 39, The Postal Service, prior to the general revision and reenactment of Title 39 by Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 719.

The Occupational Safety and Health Act of 1970, referred to in subsec. (d), is Pub. L. 91-596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

#### AMENDMENTS

2000—Subsecs. (c), (d). Pub. L. 106-384 added subsec. (c) and redesignated former subsec. (c) as (d).

1998—Subsec. (c). Pub. L. 105-241 added subsec. (c).

1976—Subsec. (b)(8), (9). Pub. L. 94-421 added par. (8) and redesignated former par. (8) as (9).

#### TRANSITIONAL PROVISION FOR NONPROFIT STANDARD (A) MAIL

Pub. L. 106-384, §2(a), Oct. 27, 2000, 114 Stat. 1461, provided that: “In any proceeding in which rates are to be established under chapter 36 of title 39, United States Code, for mail matter under former sections 4452 (b) and (c) of that title, pending as of the date of enactment of section 1 of this Act [Oct. 27, 2000], the estimated reduction in postal revenue from such mail matter caused by the enactment of section 3626(a)(6)(A) of that title, if any, shall be treated as a reasonably assignable cost of the Postal Service under section 3622(b)(3) of that title.”

### § 3623. Mail classification

(a) Within 2 years after the effective date of this subchapter, the Postal Service shall request the Postal Rate Commission to make a recommended decision on establishing a mail classification schedule in accordance with the provisions of this section.

(b) Following the establishment of the mail classification schedule requested under subsection (a) of this section, the Postal Service may from time to time request that the Commission submit, or the Commission may submit to the Governors on its own initiative, a recommended decision on changes in the mail classification schedule.

(c) The Commission shall make a recommended decision on establishing or changing

the schedule in accordance with the policies of this title and the following factors:

- (1) the establishment and maintenance of a fair and equitable classification system for all mail;
- (2) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;
- (3) the importance of providing classifications with extremely high degrees of reliability and speed of delivery;
- (4) the importance of providing classifications which do not require an extremely high degree of reliability and speed of delivery;
- (5) the desirability of special classifications from the point of view of both the user and of the Postal Service; and
- (6) such other factors as the Commission may deem appropriate.

(d) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of domestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 761; Pub. L. 94-421, § 8, Sept. 24, 1976, 90 Stat. 1310.)

#### REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsec. (a), is Jan. 20, 1971, pursuant to Resolution No. 71-10 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of this title.

#### AMENDMENTS

1976—Subsec. (b). Pub. L. 94-421 substituted “Governors on” for “Postal Service on”.

#### § 3624. Recommended decisions of Commission

(a) The Postal Rate Commission shall promptly consider a request made under section 3622 or 3623 of this title, except that the Commission shall not recommend a decision until the opportunity for a hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public.

(b) In order to conduct its proceedings with utmost expedition consistent with procedural fairness to the parties, the Commission may (without limitation) adopt rules which provide for—

- (1) the advance submission of written direct testimony;
- (2) the conduct of prehearing conferences to define issues, and for other purposes to insure orderly and expeditious proceedings;
- (3) discovery both from the Postal Service and the parties to the proceedings;
- (4) limitation of testimony; and
- (5) the conduct of the entire proceedings off the record with the consent of the parties.

(c)(1) Except as provided by paragraph (2) of this subsection, in any case in which the Postal Service makes a request under section 3622 of this title for a recommended decision by the Commission on changes in a rate or rates of postage or in a fee or fees for postal services the Commission shall transmit its recommended decision to the Governors under subsection (d) of this section no later than 10 months after receiving any such request from the Postal Service.

(2) In any case in which the Commission determines that the Postal Service has unreasonably delayed consideration of a request made by the Postal Service under section 3622 by failing to respond within a reasonable time to any lawful order of the Commission, the Commission may extend the 10-month period described in paragraph (1) of this subsection by one day for each day of such delay.

(d) The Commission shall transmit its recommended decision in a rate, fee, or classification matter to the Governors. The recommended decision shall include a statement specifically responsive to the criteria established under section 3622 or 3623, as the case may be.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 761; Pub. L. 94-421, § 5(a), Sept. 24, 1976, 90 Stat. 1306.)

#### AMENDMENTS

1976—Subsecs. (c), (d). Pub. L. 94-421 added subsec. (c) and redesignated former subsec. (c) as (d).

RATE CHANGE REQUEST MADE ON SEPTEMBER 18, 1975, OR UNDER DOCKET NUMBER R76-1

Section 5(b) of Pub. L. 94-421 provided that: “The amendment made by subsection (a) of this section [adding subsec. (c) of this section] shall not apply to any action or proceeding with respect to the recommended decision of the Postal Rate Commission relating to proposed changes in rates of postage, and in fees for postal services, requested on September 18, 1975, by the United States Postal Service in a request which bears, or which at any time has been included under, Postal Rate Commission Docket Number R76-1.”

#### § 3625. Action of the Governors

(a) Upon receiving a recommended decision from the Postal Rate Commission, the Governors may approve, allow under protest, reject, or modify that decision in accordance with the provisions of this section.

(b) The Governors may approve the recommended decision and order the decision placed in effect.

(c) The Governors may, under protest, allow a recommended decision of the Commission to take effect and (1) seek judicial review thereof under section 3628 of this title, or (2) return the recommended decision to the Commission for reconsideration and a further recommended decision, which shall be acted upon under this section and subject to review in accordance with section 3628 of this title.

(d) The Governors may reject the recommended decision of the Commission and the Postal Service may resubmit its request to the Commission for reconsideration. Upon resubmission, the request shall be reconsidered, and a further recommended decision of the Commission shall be acted upon under this section and subject to review in accordance with section 3628

of this title. However, with the unanimous written concurrence of all of the Governors then holding office, the Governors may modify any such further recommended decision of the Commission under this subsection if the Governors expressly find that (1) such modification is in accord with the record and the policies of this chapter, and (2) the rates recommended by the Commission are not adequate to provide sufficient total revenues so that total estimated income and appropriations will equal as nearly as practicable estimated total costs.

(e) The decision of the Governors to approve, allow under protest, reject, or modify a recommended decision of the Commission shall be in writing and shall include an estimate of anticipated revenue and a statement of explanation and justification. The decision, the record of the Commission's hearings, and the Commission's recommended decision shall be made generally available at the time the decision is issued and shall be printed and made available for sale by the Public Printer within 10 days following the day the decision is issued.

(f) The Board shall determine the date on which the new rates, fees, the mail classification schedule, and changes in such schedule under this subchapter shall become effective.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 762; Pub. L. 103-123, title VII, § 708(d), Oct. 28, 1993, 107 Stat. 1273.)

#### AMENDMENTS

1993—Subsec. (d). Pub. L. 103-123 substituted "section 3628" for "section 3268".

#### § 3626. Reduced rates

(a)(1) Except as otherwise provided in this section, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with the applicable provisions of this chapter.

(2) For the purpose of this subsection—

(A) the term "costs attributable", as used with respect to a class of mail or kind of mailer, means the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service);

(B) the term "regular-rate category" means any class of mail or kind of mailer, other than a class or kind referred to in paragraph (3)(A) or section 2401(c); and

(C) the term "institutional-costs contribution", as used with respect to a class of mail or kind of mailer, means that portion of the estimated revenues to the Postal Service from such class of mail or kind of mailer which remains after subtracting an amount equal to the estimated costs attributable to such class of mail or kind of mailer.

(3)(A) Except as provided in paragraph (4) or (5), rates of postage for a class of mail or kind of mailer under former section 4358 of this title shall be established in a manner such that the estimated revenues to be received by the Postal Service from such class of mail or kind of mailer shall be equal to the sum of—

(i) the estimated costs attributable to such class of mail or kind of mailer; and

(ii) the product derived by multiplying the estimated costs referred to in clause (i) by the applicable percentage under subparagraph (B).

(B) The applicable percentage for any class of mail or kind of mailer referred to in subparagraph (A) shall be the product derived by multiplying—

(i) the percentage which, for the most closely corresponding regular-rate category, the institutional-costs contribution for such category represents relative to the estimated costs attributable to such category of mail, times

(ii)(I) one-twelfth, for fiscal year 1994;

(II) one-sixth, for fiscal year 1995;

(III) one-fourth, for fiscal year 1996;

(IV) one-third, for fiscal year 1997;

(V) five-twelfths, for fiscal year 1998; and

(VI) one-half, for any fiscal year after fiscal year 1998.

(C) Temporary special authority to permit the timely implementation of the preceding provisions of this paragraph is provided under section 3642.

(D) For purposes of establishing rates of postage under this subchapter for any of the classes of mail or kinds of mailers referred to in subparagraph (A), subclauses (I) through (V) of subparagraph (B)(ii) shall be deemed amended by striking the fraction specified in each such subclause and inserting "one-half".

(4)(A) Except as specified in subparagraph (B), rates of postage for a class of mail or kind of mailer under former section 4358 (d) or (e) of this title shall be established so that postage on each mailing of such mail shall be as nearly as practicable 5 percent lower than the postage for a corresponding regular-rate category mailing.

(B) With respect to the postage for the advertising portion of any mail matter under former section 4358 (d) or (e) of this title, the 5-percent discount specified in subparagraph (A) shall not apply if the advertising portion exceeds 10 percent of the publication involved.

(5) The rates for any advertising under former section 4358(f) of this title shall be equal to 75 percent of the rates for advertising contained in the most closely corresponding regular-rate category of mail.

(6) The rates for mail matter under former sections 4452 (b) and (c) of this title shall be established as follows:

(A) The estimated average revenue per piece to be received by the Postal Service from each subclass of mail under former sections 4452 (b) and (c) of this title shall be equal, as nearly as practicable, to 60 percent of the estimated average revenue per piece to be received from the most closely corresponding regular-rate subclass of mail.

(B) For purposes of subparagraph (A), the estimated average revenue per piece of each regular-rate subclass shall be calculated on the basis of expected volumes and mix of mail for such subclass at current rates in the test year of the proceeding.

(C) Rate differentials within each subclass of mail matter under former sections 4452 (b) and (c) shall reflect the policies of this title, including the factors set forth in section 3622(b) of this title.

(7) The rates for mail matter under former sections 4554 (b) and (c) of this title shall be established so that postage on each mailing of such mail shall be as nearly as practicable 5 percent lower than the postage for a corresponding regular-rate mailing.

(b)(1) For the purposes of this title, the term “periodical publications”, as used in former section 4351 of this title, includes (A) any catalog or other course listing, including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education; and (B) any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

(2) Any material described in paragraph (1) of this subsection shall qualify to be entered and mailed as second class mail in accordance with the applicable provisions of former section 4352 through former section 4357 of this title.

(3) For purposes of this subsection, the term “institution of higher education” has the meaning given it by section 101 of the Higher Education Act of 1965, and includes a nonprofit organization that coordinates a network of college-level courses that is sponsored primarily by nonprofit educational institutions for an older adult constituency.

(c) In the administration of this section, one conservation publication published by an agency of a State which is responsible for management and conservation of the fish or wildlife resources of such State shall be considered a publication of a qualified nonprofit organization which qualifies for rates of postage under former section 4358(d) of this title.

(d)(1) For purposes of this title, the term “agricultural”, as used in former sections 4358(j)(2), 4452(d), and 4554(b)(1)(B) of this title, includes the art or science of cultivating land, harvesting crops or marine resources, or raising of livestock.

(2) In the administration of this section, and for purposes of former sections 4358(j)(2), 4452(d), and 4554(b)(1)(B) of this title, agricultural organizations or associations shall include any organization or association which collects and disseminates information or materials relating to agricultural pursuits.

(e)(1) In the administration of this section, the rates for third-class mail matter mailed by a qualified political committee shall be the rates currently in effect under former section 4452 of this title for third-class mail matter mailed by a qualified nonprofit organization.

(2) For purposes of this subsection—

(A) the term “qualified political committee” means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee;

(B) the term “national committee” means the organization which, by virtue of the bylaws of a political party, is responsible for the

day-to-day operation of such political party at the national level; and

(C) the term “State committee” means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.

(f) In the administration of this chapter, the rates for mail under former section 4358(g) of this title shall be established without regard to either the provisions of such former section 4358(g) or the provisions of this section.

(g)(1) In the administration of this section, the rates for mail under subsections (a), (b), and (c) of former section 4358 of this title shall not apply to an issue of a publication if the number of copies of such issue distributed within the county of publication is less than the number equal to the sum of 50 percent of the total paid circulation of such issue plus one.

(2) Paragraph (1) of this subsection shall not apply to an issue of a publication if the total paid circulation of such issue is less than 10,000 copies.

(h) In the administration of this section, the number of copies of a subscription publication mailed to nonsubscribers during a calendar year at rates under subsections (a), (b), and (c) of former section 4358 of this title may not exceed 10 percent of the number of copies of such publication mailed at such rates to subscribers.

[(i) Repealed. Pub. L. 103-123, title VII, § 704(a)(3)(A), Oct. 28, 1993, 107 Stat. 1269.]

(j)(1) In the administration of this section, the rates for mail under former section 4452(b) or 4452(c) of this title shall not apply to mail which advertises, promotes, offers, or, for a fee or consideration, recommends, describes, or announces the availability of—

(A) any credit, debit, or charge card, or similar financial instrument or account, provided by or through an arrangement with any person or organization not authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title;

(B) any insurance policy, unless the organization which promotes the purchase of such policy is authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title, the policy is designed for and primarily promoted to the members, donors, supporters, or beneficiaries of the organization, and the coverage provided by the policy is not generally otherwise commercially available;

(C) any travel arrangement, unless the organization which promotes the arrangement is authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title, the travel contributes substantially (aside from the cultivation of members, donors, or supporters, or the acquisition of income or funds) to one or more of the purposes which constitutes the basis for the organization's authorization to mail at such rates, and the arrangement is designed for and primarily promoted to the members, donors, supporters, or beneficiaries of the organization; or

(D) any product or service (other than any to which subparagraph (A), (B), or (C) relates), if—

(i) the sale of such product or the providing of such service is not substantially

related (aside from the need, on the part of the organization promoting such product or service, for income or funds or the use it makes of the profits derived) to the exercise or performance by the organization of one or more of the purposes constituting the basis for the organization's authorization to mail at such rates; or

(ii) the mail matter involved is part of a cooperative mailing (as defined under regulations of the Postal Service) with any person or organization not authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title;

except that—

(I) any determination under clause (i) that a product or service is not substantially related to a particular purpose shall be made under regulations which shall be prescribed by the Postal Service and which shall be consistent with standards established by the Internal Revenue Service and the courts with respect to subsections (a) and (c) of section 513 of the Internal Revenue Code of 1986; and

(II) clause (i) shall not apply if the product involved is a periodical publication described in subsection (m)(2) (including a subscription to receive any such publication); and

(III) clause (i) shall not apply to space advertising in mail matter that otherwise qualifies for rates under former section 4452(b) or 4452(c) of this title, and satisfies the content requirements established by the Postal Service for periodical publications: *Provided*, That such changes in law shall take effect immediately and shall stay in effect hereafter unless the Congress enacts legislation on this matter prior to October 1, 1995.

(2) Matter shall not be excluded from being mail at the rates for mail under former section 4452(b) or 4452(c) of this title, by an organization authorized to mail at those rates solely because—

(A) such matter contains, but is not primarily devoted to, acknowledgements of organizations or individuals who have made donations to the authorized organization; or

(B) such matter contains, but is not primarily devoted to, references to and a response card or other instructions for making inquiries concerning services or benefits available as a result of membership in the authorized organization: *Provided*, That advertising, promotional, or application materials specifically concerning such services or benefits are not included.

(3)(A) Upon request, an organization authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title shall furnish evidence to the Postal Service concerning the eligibility of any of its mail matter or mailings to be sent at those rates.

(B) The Postal Service shall establish procedures to carry out this paragraph, including procedures for mailer certification of compliance with the conditions specified in paragraph (1)(D) or subsection (m), as applicable, and verification of such compliance.

(k)(1) No person or organization shall mail, or cause to be mailed by contractual agreement or otherwise, at the rates for mail under former section 4452(b) or 4452(c) of this title, any matter to which those rates do not apply.

(2) The Postal Service may assess a postage deficiency in the amount of the unpaid postage against any person or organization which violates paragraph (1) of this subsection. This assessment shall be deemed the final decision of the Postal Service, unless the party against whom the deficiency is assessed appeals it in writing within thirty days to the postmaster of the office where the mailing was entered. Such an appeal shall be considered by an official designated by the Postal Service, other than the postmaster of the office where the mailing was entered, who shall issue a decision as soon as practicable. This decision shall be deemed final unless the party against whom the deficiency was assessed appeals it in writing within thirty days to a further reviewing official designated by the Postal Service, who shall issue the final decision on the matter.

(3) The Postal Service shall maintain procedures for the prompt collection of postage deficiencies arising from the violation of paragraph (1) of this subsection, and may in its discretion, follow the issuance of a final decision regarding a deficiency under paragraph (2) of this subsection deduct the amount of that deficiency incurred during the previous 12 months from any postage accounts or other monies of the violator in its possession.

(l) In the administration of this section, the term "advertising", as used in former section 4358(j)(2) of this title, does not include the publisher's own advertising in a publication published by the official highway or development agency of a State.

(m)(1) In the administration of this section, the rates for mail under former section 4452(b) or 4452(c) of this title shall not apply to mail consisting of products, unless such products—

(A) were received by the organization as gifts or contributions; or

(B) are low cost articles (as defined by section 513(h)(2) of the Internal Revenue Code of 1986).

(2) Paragraph (1) shall not apply with respect to a periodical publication of a qualified nonprofit organization.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 762; Pub. L. 93-328, §1, June 30, 1974, 88 Stat. 287; Pub. L. 94-421, §11, Sept. 24, 1976, 90 Stat. 1311; Pub. L. 95-593, §11(c), Nov. 4, 1978, 92 Stat. 2538; Pub. L. 99-272, title XV, §§15102(b)(1), (c), 15104, 15105, Apr. 7, 1986, 100 Stat. 330, 331; Pub. L. 99-509, title VI, §6003(a), Oct. 21, 1986, 100 Stat. 1933; Pub. L. 101-509, title II, §1(a), 3, Nov. 5, 1990, 104 Stat. 1397, 1399; Pub. L. 102-141, title II, Oct. 28, 1991, 105 Stat. 842, 843; Pub. L. 103-123, title VII, §§704(a)(1), (3)(A), 705(a)-(c), 708(e), Oct. 28, 1993, 107 Stat. 1267, 1269, 1271, 1273; Pub. L. 103-329, title VI, §639, Sept. 30, 1994, 108 Stat. 2432; Pub. L. 104-255, §2, Oct. 9, 1996, 110 Stat. 3169; Pub. L. 105-244, title I, §102(a)(12), Oct. 7, 1998, 112 Stat. 1620; Pub. L. 106-384, §§1(b)-(e), 2(b), Oct. 27, 2000, 114 Stat. 1460-1462.)



## REFERENCES IN TEXT

Former sections 4351 to 4358, 4452, and 4554 of this title, referred to in subsections. (a)–(e)(1), (f), (g)(1), (h), and (j) to (m), mean the aforesaid sections which were classified to former Title 39, The Postal Service, prior to the general revision and reenactment of Title 39 by Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 719.

Section 101 of the Higher Education Act of 1965, referred to in subsec. (b)(3), is classified to section 1001 of Title 20, Education.

Section 513 of the Internal Revenue Code of 1986, referred to in subsections. (j)(1)(D)(I) and (m)(1)(B), is classified to section 513 of Title 26, Internal Revenue Code.

The phrase “shall take effect immediately and shall stay in effect hereafter”, referred to in subsec. (j)(1)(D)(III), probably means that the provision shall take effect Sept. 30, 1994, the date of enactment of Pub. L. 103–329, which enacted subsec. (j)(1)(D)(III), and shall stay in effect after that date.

## AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106–384, §2(b), substituted “4554(b), or 4554(c)” for “4454(b), or 4454(c)”.

Subsec. (a)(3)(A). Pub. L. 106–384, §1(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “Except as provided in paragraph (4) or (5), rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in a manner such that the estimated revenues to be received by the Postal Service from such class of mail or kind of mailer shall be equal to the sum of—

“(i) the estimated costs attributable to such class of mail or kind of mailer; and

“(ii) the product derived by multiplying the estimated costs referred to in clause (i) by the applicable percentage under subparagraph (B).”

Subsec. (a)(4). Pub. L. 106–384, §1(c), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The rates for the advertising portion of any mail matter under former section 4358(d) or 4358(e) of this title shall be equal to the rates for the advertising portion of the most closely corresponding regular-rate category of mail, except that if the advertising portion does not exceed 10 percent of the issue of the publication involved, the advertising portion shall be subject to the same rates as apply to the nonadvertising portion.”

Subsec. (a)(6). Pub. L. 106–384, §1(d), added par. (6).

Subsec. (a)(7). Pub. L. 106–384, §1(e), added par. (7).

1998—Subsec. (b)(3). Pub. L. 105–244 substituted “section 101” for “section 1201(a)” and struck out “(20 U.S.C. 1141(a))” after “Act of 1965”.

1996—Subsec. (b)(3). Pub. L. 104–255 inserted before period “, and includes a nonprofit organization that coordinates a network of college-level courses that is sponsored primarily by nonprofit educational institutions for an older adult constituency”.

1994—Subsec. (j)(1)(D)(III). Pub. L. 103–329 added cl. (III).

1993—Subsec. (a). Pub. L. 103–123, §704(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

“(1) Except as provided in paragraph (2) of this subsection, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with applicable provisions of this chapter.

“(2) Rates of postage for a class of mail or kind of mailer referred to in paragraph (1) of this subsection shall be established in accordance with the requirement that the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service) shall be borne by such class of mail or kind of mailer, as the case may be: *Provided, however*, That with respect to mail under former section 4452(b) and 4452(c) of this title the preceding limitation shall apply only to rates of postage for letter shaped pieces, as such pieces are defined in the associated classification and rate schedules.”

Subsec. (i). Pub. L. 103–123, §704(a)(3)(A), struck out subsec. (i) which defined “reduced-rate category” and “regular-rate category” and provided method for determining costs recovered by revenues plus appropriations for reduced-rate categories and for the purpose of distinguishing costs recovered from regular-rate categories and reduced-rate categories and determining appropriation requests relating to reduced-rate categories.

Subsec. (j)(1)(D). Pub. L. 103–123, §705(a), added subpar. (D).

Subsec. (j)(3). Pub. L. 103–123, §705(c), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (k), (l). Pub. L. 103–123, §708(e), redesignated subsec. (k), defining “advertising”, as (l).

Subsec. (m). Pub. L. 103–123, §705(b), added subsec. (m).

1991—Subsec. (a)(2). Pub. L. 102–141 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Rates of postage for a class of mail or kind of mailer referred to in paragraph (1) of this subsection shall be established in accordance with the requirement that the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service) shall be borne by such class of mail or kind of mailer, as the case may be.”

Subsec. (i)(2). Pub. L. 102–141 inserted “Subject to the requirements of section 2401(c) of this title and paragraph (a)(2) of this section with respect to mail under former sections 4452(b) and 4452(c) of this title,” before “This subsection”.

1990—Subsec. (j). Pub. L. 101–509, §1(a), added subsec. (j).

Subsec. (k). Pub. L. 101–509, §3, added subsec. (k) defining “advertising”.

Pub. L. 101–509, §1(a), added subsec. (k) relating to mailing of matter at inapplicable rates.

1986—Subsec. (a). Pub. L. 99–272, §15102(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “If the rates of postage for any class of mail or kind of mailer under former sections 4358, 4359, 4421, 4422, 4452, or 4554 of this title, as such rates existed on the effective date of this subchapter, are, on the effective date of the first rate decision under this subchapter affecting that class or kind, less than the rates established by such decision, a separate rate schedule shall be adopted for that class or kind effective each time rates are established or changed under this subchapter, with annual increases as nearly equal as practicable, so that—

“(1) the revenues received from rates for mail under former sections 4358, 4452(b) and (c), 4554(b) and (c) shall not, on and after the first day of the sixteenth year following the effective date of the first rate decision applicable to that class or kind, exceed the direct and indirect postal costs attributable to mail of such class or kind (excluding all other costs of the Postal Service);

“(2) the rates for mail under former sections 4359, 4421, 4422, and 4554(a) shall be equal, on and after the first day of the eighth year following the effective date of the first rate decision applicable to that class or kind, to the rates that would have been in effect for such mail if this subparagraph had not been enacted; and

“(3) the rates for mail under former section 4452(a) shall be equal, on and after the first day of the fifth year following the effective date of the first rate decision applicable to that class or kind, to the rates that would have been in effect for such mail if this subparagraph had not been enacted.

No person who would have been entitled to mail matter under former section 4359 of this title shall mail such matter at the rates provided under this subsection unless he files annually with the Postal Service a written request for permission to mail matter at such rates.”

Subsec. (f). Pub. L. 99–272, §15102(c), added subsec. (f).

Subsec. (g). Pub. L. 99–272, §15104, added subsec. (g).

Subsec. (h). Pub. L. 99–272, §15105, added subsec. (h).

Subsec. (i). Pub. L. 99–509 added subsec. (i).

1978—Subsec. (e). Pub. L. 95-593 added subsec. (e).  
 1976—Pub. L. 94-421 designated existing provisions as subsec. (a) and added subssecs. (b) to (d).

1974—Pub. L. 93-328 substituted “sixteenth” for “tenth” year in subpar. (1), substituted “under former sections” for “under sections”, “eighth” for “fifth” year, and “subparagraph” for “subsection” and struck out reference to section “4452(a)” after “4422,” in subpar. (2), and added subpar. (3).

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Section 704(c)(1) of Pub. L. 103-123 provided that: “The amendments made by subsection (a) [enacting section 3642 of this title and amending this section and section 3627 of this title] shall apply with respect to rates for mail sent after September 30, 1993.”

Section 705(d) of Pub. L. 103-123 provided that: “The amendments made by this section [amending this section] shall apply with respect to mail sent, and the rates for mail sent, after December 31, 1993.”

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1(a) of Pub. L. 101-509 effective 90 days after Nov. 5, 1990, see section 1(c) of Pub. L. 101-509, set out as a note under section 2401 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENTS

Section 6003(c) of Pub. L. 99-509 provided that: “The amendments made by this section [amending this section and section 2401 of this title] shall take effect on January 1, 1989, or on the effective date of the next general change in rates and fees under sections 3622 and 3625 of title 39, United States Code [Apr. 3, 1988, see 53 F.R. 10014], whichever is sooner.”

Section 15102(b)(2) of Pub. L. 99-272 provided that: “The amendment made by this subsection [amending this section] shall apply with respect to rates of postage taking effect after December 31, 1985.”

#### RELIEF OF CERTAIN PERIODICAL PUBLICATIONS

Pub. L. 104-52, title V, § 527, Nov. 19, 1995, 109 Stat. 496, provided that: “For mail classification purposes under section 3626 of title 39, United States Code, and any regulations of the United States Postal Service for the administration of that section, a weekly second-class periodical publication which—

“(i) is eligible to publish legal notices under any applicable laws of the State where it is published;

“(ii) is eligible to be mailed at the rates for mail under former subsection 4358(a), (b), and (c) of title 39, United States Code, as limited by current subsection 3626(g) of that title; and

“(iii) the pages of which were customarily secured by 2 staples before March 19, 1989; shall not be considered to be a bound publication solely because its pages continue to be secured by 2 staples after that date.”

#### FORBEARANCE REGARDING CERTAIN POSTAGE DEFICIENCIES

Section 2 of Pub. L. 101-509 provided that:

“(a) IN GENERAL.—The United States Postal Service may forbear from the collection of any postage deficiency assessed against an organization authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of title 39, United States Code, if the assessment of that deficiency arises from a violation of the cooperative mailing regulations of the Postal Service set forth at section 625.5 of the Domestic Mail Manual, and the Postal Service has made no determination that the organization knowingly or willfully violated such

regulations. If any organizations authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of title 39, United States Code, has paid on its own behalf all or part of a postage deficiency which the Postal Service would forbear from collecting under this section, the Postal Service may refund to that organization the amount which it has paid.

“(b) EFFECTIVE DATE AND APPLICABILITY.—The provisions of this section shall become effective on the date of enactment of this Act [Nov. 5, 1990], and shall apply to mailings which were sent on or between July 1, 1986, and the effective date of this section.”

#### CONSTRUCTION RESPECTING POSTAGE RATES REDUCTION UNAUTHORIZED

Section 2 of Pub. L. 93-328 provided that: “Nothing in section 1 of this Act [amending this section] shall be construed to authorize a reduction in any rate of postage in effect and being paid on the date of enactment of this Act [June 30, 1974].”

### § 3627. Adjusting free rates

If Congress fails to appropriate an amount authorized under section 2401(c) of this title for any class of mail sent free of postage under section 3217 or 3403-3406<sup>1</sup> the rate for that class may be adjusted in accordance with the provisions of this subchapter so that the increased revenues received from the users of such class will equal the amount for that class that the Congress was to appropriate.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 763; Pub. L. 95-593, § 11(b), Nov. 4, 1978, 92 Stat. 2538; Pub. L. 99-410, title II, § 201(b)(3), Aug. 28, 1986, 100 Stat. 928; Pub. L. 103-31, § 8(h)(3), May 20, 1993, 107 Stat. 86; Pub. L. 103-123, title VII, § 704(a)(3)(B)(i), Oct. 28, 1993, 107 Stat. 1269.)

#### AMENDMENTS

1993—Pub. L. 103-123 substituted “free rates” for “free and reduced rates” in section catchline and “sent free of postage under section 3217 or 3403-3406” for “sent at a free or reduced rate under section 3217, 3403-3406, 3626, or 3629 of this title,” in text.

Pub. L. 103-31 substituted “3626, or 3629 of this title” for “or 3626 of this title,”.

1986—Pub. L. 99-410 substituted “3406” for “3405” and struck out “under the Federal Voting Assistance Act of 1955, or under the Overseas Citizens Voting Rights Act of 1975” after “3626 of this title,”.

1978—Pub. L. 95-593 inserted provisions relating to applicability of Overseas Citizens Voting Rights Act of 1975.

#### EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103-123 applicable with respect to rates for mail sent after Sept. 30, 1993, see section 704(c)(1) of Pub. L. 103-123, set out as a note under section 3626 of this title.

Amendment by Pub. L. 103-31 effective (1) with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with section 1973gg et seq. of Title 42, The Public Health and Welfare, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with section 1973gg et seq. of Title 42 without requiring a special election, and (2) with respect to a State not described above, on Jan. 1, 1995, see section 13 of Pub. L. 103-31, set out as an Effective Date note under section 1973gg of Title 42.

<sup>1</sup> So in original. Probably should be followed by “of this title,”.

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-410 applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99-410, set out as an Effective Date note under section 1973ff of Title 42, The Public Health and Welfare.

**§ 3628. Appellate review**

A decision of the Governors to approve, allow under protest, or modify the recommended decision of the Postal Rate Commission may be appealed to any court of appeals of the United States, within 15 days after its publication by the Public Printer, by an aggrieved party who appeared in the proceedings under section 3624(a) of this title. The court shall review the decision, in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, except as otherwise provided in this section, on the basis of the record before the Commission and the Governors. The court may affirm the decision or order that the entire matter be returned for further consideration, but the court may not modify the decision. The court may not suspend the effectiveness of the changes, or otherwise prevent them from taking effect until final disposition of the suit by the court. No court shall have jurisdiction to review a decision made by the Commission or Governors under this chapter except as provided in this section.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 763; Pub. L. 98-620, title IV, §402(37), Nov. 8, 1984, 98 Stat. 3360.)

## AMENDMENTS

1984—Pub. L. 98-620 struck out provision which required the court to make the matter a preferred cause and to expedite judgment in every way.

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as a note under section 1657 of Title 28, Judiciary and Judicial Procedure.

**§ 3629. Reduced rates for voter registration purposes**

The Postal Service shall make available to a State or local voting registration official the rate for any class of mail that is available to a qualified nonprofit organization under section 3626 for the purpose of making a mailing that the official certifies is required or authorized by the National Voter Registration Act of 1993.

(Added Pub. L. 103-31, §8(h)(1), May 20, 1993, 107 Stat. 86.)

## REFERENCES IN TEXT

The National Voter Registration Act of 1993, referred to in text, is Pub. L. 103-31, May 20, 1993, 107 Stat. 77, as amended, which is classified principally to subchapter I-H (§1973gg et seq.) of chapter 20 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1971 of Title 42 and Tables.

## EFFECTIVE DATE

Section effective (1) with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with section 1973gg et seq. of Title 42, The Public Health and Wel-

fare, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with section 1973gg et seq. of Title 42 without requiring a special election, and (2) with respect to a State not described above, on Jan. 1, 1995, see section 13 of Pub. L. 103-31, set out as a note under section 1973gg of Title 42.

## SUBCHAPTER III—TEMPORARY RATES AND CLASSES

**§ 3641. Temporary changes in rates and classes**

(a) In any case in which the Postal Rate Commission fails to transmit a recommended decision on a change in rates of postage or in fees for postal services to the Governors in accordance with section 3624(c) of this title, the Postal Service may establish temporary changes in rates of postage and in fees for postal services in accordance with the proposed changes under consideration by the Commission. Such temporary changes may take effect upon such date as the Postal Service may determine, except that such temporary changes may take effect only after 10 days' notice in the Federal Register.

(b) Any temporary rate or fee established by the Postal Service under subsection (a) of this section shall be in accordance with the policies of this title and shall not exceed such amount as may be necessary for sufficient revenues to assure that the total estimated income, including appropriations, of the Postal Service shall, to the extent practicable, be equal to the total estimated costs of the Postal Service.

(c) Notwithstanding the provisions of subsection (b) of this section, the Postal Service may not establish any temporary rate for a class of mail or any temporary fee for a postal service which is more than the permanent rate or fee requested for such class or postal service by the Postal Service under section 3622 of this title.

(d) Any temporary change in rates of postage or in fees for postal services made by the Postal Service under this section shall remain in effect no longer than 150 days after the date on which the Commission transmits its recommended decision to the Governors under section 3624(d) of this title, unless such temporary change is terminated by the Governors before the expiration of such period.

(e) If the Postal Rate Commission does not transmit to the Governors within 90 days after the Postal Service has submitted, or within 30 days after the Postal Service has resubmitted, to the Commission a request for a recommended decision on a change in the mail classification schedule (after such schedule is established under section 3623 of this title), the Postal Service, upon 10 days' notice in the Federal Register, may place into effect temporary changes in the mail classification schedule in accordance with proposed changes under consideration by the Commission. Any temporary change shall be effective for a period ending not later than 30 days after the Commission has transmitted its recommended decision to the Governors.

(f) If, under section 3628 of this title, a court orders a matter returned to the Commission for further consideration, the Postal Service, with the consent of the Commission, may place into effect temporary changes in rates of postage, and fees for postal services, or in the mail classification schedule.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 763; Pub. L. 94-421, §6(a), Sept. 24, 1976, 90 Stat. 1306.)

#### AMENDMENTS

1976—Subsec. (a). Pub. L. 94-421 added subsec. (a). Former subsec. (a) redesignated (e) and amended.

Subsec. (b). Pub. L. 94-421 added subsec. (b). Former subsec. (b) redesignated (f).

Subsec. (c). Pub. L. 94-421 substituted provision limiting the temporary rate increase to an amount no greater than the permanent fee requested for that class or service, for provision which limited a temporary increase to the lesser of either the rate or fee requested or an amount more than one-third greater than the permanent fee in effect for that class or service at the time a permanent change is requested.

Subsec. (d). Pub. L. 94-421 added subsec. (d).

Subsec. (e). Pub. L. 94-421 redesignated former subsec. (a) as (e) and struck out reference to requests for decisions on change in the rates of postage or fees for postal service.

Subsec. (f). Pub. L. 94-421 redesignated former subsec. (b) as (f).

#### EFFECTIVE DATE

Section effective Jan. 20, 1971, pursuant to Resolution No. 71-10 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

#### RATE CHANGE REQUEST MADE ON SEPTEMBER 18, 1975, OR UNDER DOCKET NUMBER R76-1

Section 6(b)(1) of Pub. L. 94-421 provided that: "The amendment made by subsection (a) of this section [amending this section] shall not apply to any action or proceeding with respect to the recommended decision of the Postal Rate Commission relating to proposed changes in rates of postage and in fees for postal services requested on September 18, 1975, by the United States Postal Service in a request which bears, or which at any time has been included under, Postal Rate Commission Docket Number R76-1."

#### APPLICABILITY OF FORMER PROVISIONS OF SECTION TO RATE CHANGE REQUEST MADE ON SEPTEMBER 18, 1975, UNDER DOCKET NUMBER R76-1

Section 6(b)(2) of Pub. L. 94-421 provided that: "The provisions of section 3641 of title 39, United States Code, as such provisions were in effect on the day before the date of the enactment of this Act [Sept. 24, 1976], shall apply to any temporary rate or fee established by the Postal Service pursuant to its request to the Postal Rate Commission, dated September 18, 1975, for a recommended decision, bearing Docket Number R76-1."

### § 3642. Special authority relating to reduced-rate categories of mail

(a) In order to permit the timely implementation of section 3626(a)(3), the Postal Service may establish temporary rates of postage for any class of mail or kind of mailer referred to in section 3626(a)(3)(A).

(b) Any exercise of authority under this section shall be in conformance with the requirements of section 3626(a), subject to the following:

(1) All attributable costs and institutional-costs contributions assumed shall be the same

as those which were assumed for purposes of the then most recent proceedings under subchapter II pursuant to which rates of postage for the class of mail or kind of mailer involved were last adjusted.

(2) Any temporary rate established under this section shall take effect upon such date as the Postal Service may determine, except that—

(A) such a rate may take effect only after 10 days' notice in the Federal Register; and

(B) no such rate may take effect after September 30, 1998.

(3) A temporary rate under this section may remain in effect no longer than the last day of the fiscal year in which it first takes effect.

(4) Authority under this section may not be exercised in a manner that would result in more than 1 change taking effect under this section, during the same fiscal year, in the rates of postage for a particular class of mail or kind of mailer, except as provided in paragraph (5).

(5) Nothing in paragraph (4) shall prevent an adjustment under this section in rates for a class of mail or kind of mailer with respect to which any rates took effect under this section earlier in the same fiscal year if—

(A) the rates established for such class of mail or kind of mailer by the earlier adjustment are superseded by new rates established under subchapter II; and

(B) authority under this paragraph has not previously been exercised with respect to such class of mail or kind of mailer based on the new rates referred to in subparagraph (A).

(c) The Postal Service may prescribe any regulations which may be necessary to carry out this section, including provisions governing the coordination of adjustments under this section with any other adjustments under this title.

(d) Notwithstanding any provision of section 3626(a)(3)(B) or subsection (a) of this section, any temporary rates established under this section for non-letter-shaped mail under former section 4452(b) or 4452(c) of this title shall not be lower than the rates in effect for such mail on September 30, 1993.

(Added Pub. L. 103-123, title VII, §704(a)(2), Oct. 28, 1993, 107 Stat. 1268.)

#### REFERENCES IN TEXT

Former section 4452 of this title, referred to in subsec. (d), means section 4452 of former Title 39, The Postal Service, prior to the general revision and reenactment of Title 39 by Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 719.

#### EFFECTIVE DATE

Section applicable with respect to rates for mail sent after Sept. 30, 1993, see section 704(c)(1) of Pub. L. 103-123, set out as an Effective Date of 1993 Amendment note under section 3626 of this title.

### SUBCHAPTER IV—POSTAL SERVICES AND COMPLAINTS

#### § 3661. Postal services

(a) The Postal Service shall develop and promote adequate and efficient postal services.

(b) When the Postal Service determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis, it shall submit a proposal, within a reasonable time prior to the effective date of such proposal, to the Postal Rate Commission requesting an advisory opinion on the change.

(c) The Commission shall not issue its opinion on any proposal until an opportunity for hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mail, and an officer of the Commission who shall be required to represent the interests of the general public. The opinion shall be in writing and shall include a certification by each Commissioner agreeing with the opinion that in his judgment the opinion conforms to the policies established under this title.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 764.)

#### EFFECTIVE DATE

Subchapter effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

#### COMMISSION ON POSTAL SERVICE

Pub. L. 94-421, § 7, Sept. 24, 1976, 90 Stat. 1307, related to establishment, appointment and compensation of personnel and officers of a Commission on Postal Service and its duty to determine public service aspects of Postal Service and extent to which public service aspects of Postal Service are to be supported by appropriations, to study rate making, and to review service levels and electronic fund transfers and communication techniques, with appropriate recommendations to be transmitted to President and Congress on or before Mar. 15, 1977, 60 days after which transmittal it was to cease to exist.

### § 3662. Rate and service complaints

Interested parties who believe the Postal Service is charging rates which do not conform to the policies set out in this title or who believe that they are not receiving postal service in accordance with the policies of this title may lodge a complaint with the Postal Rate Commission in such form and in such manner as it may prescribe. The Commission may in its discretion hold hearings on such complaint. If the Commission, in a matter covered by subchapter II of this chapter, determines the complaint to be justified, it shall, after proceedings in conformity with section 3624 of this title, issue a recommended decision which shall be acted upon in accordance with the provisions of section 3625 of this title and subject to review in accordance with the provisions of section 3628 of this title. If a matter not covered by subchapter II of this chapter is involved, and the Commission after hearing finds the complaint to be justified, it shall render a public report thereon to the Postal Service which shall take such action as it deems appropriate.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 764.)

### § 3663. Annual report on international services

(a) Not later than July 1 of each year, the Postal Rate Commission shall transmit to each House of Congress a comprehensive report of the

costs, revenues, and volumes accrued by the Postal Service in connection with mail matter conveyed between the United States and other countries for the previous fiscal year.

(b) Not later than March 15 of each year, the Postal Service shall provide to the Postal Rate Commission such data as the Commission may require to prepare the report required under subsection (a) of this section. Data shall be provided in sufficient detail to enable the Commission to analyze the costs, revenues, and volumes for each international mail product or service, under the methods determined appropriate by the Commission for the analysis of rates for domestic mail.

(Added Pub. L. 105-277, div. A, § 101(h) [title VI, § 648(a)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-527.)

## SUBCHAPTER V—GENERAL

### § 3681. Reimbursement

No mailer may be reimbursed for any amount paid under any rate or fee which, after such payment, is determined to have been unlawful after proceedings in accordance with the provisions of section 3628 of this title, or is superseded by a lower rate or fee established under subchapter II of this chapter.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 764.)

#### EFFECTIVE DATE

Subchapter effective Jan. 20, 1971, pursuant to Resolution No. 71-10 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

### § 3682. Size and weight limits

The Postal Service may establish size and weight limitations for mail matter in the same manner as prescribed for changes in mail classification under subchapter II of this chapter.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 765; Pub. L. 96-70, title I, § 1331(e)(4), Sept. 27, 1979, 93 Stat. 482; Pub. L. 97-242, § 1(a), Aug. 24, 1982, 96 Stat. 300.)

#### AMENDMENTS

1982—Pub. L. 97-242 struck out subsecs. (a) and (b) and designation “(c)” before “The Postal Service” and in resulting undesignated paragraph substituted “mail matter” and “mail classification” for “letter mail” and “classification”, respectively. Former subsecs. (a) and (b) had provided that the maximum weight of mail other than letter mail was 40 pounds, that the maximum size was 78 inches in girth and length combined before July 1, 1971, and 84 inches in girth and length combined on and after July 1, 1971, and that the maximum size on mail, other than letter mail, was 100 inches in girth and length combined and the maximum weight was 70 pounds if the mail (1) was mailed at, or addressed for delivery at, other than first-class post offices or on rural or star routes, (2) contained baby fowl, live plants, trees, shrubs, or agricultural commodities but not the manufactured products of those commodities, (3) would have been entitled to be mailed under former section 4554 of this title, (4) was addressed to or mailed at any Armed Forces post office outside the 50 States, or (5) was addressed to or mailed in the Commonwealth of Puerto Rico, the States of Alaska and Hawaii, or a possession of the United States including the Trust Territory of the Pacific Islands.

1979—Subsec. (b)(5). Pub. L. 96-70 struck out “the Canal Zone and” after “United States including”.

## EFFECTIVE DATE OF 1982 AMENDMENT

Section 1(b) of Pub. L. 97-242 provided that: “The size and weight limitations for other than letter mail established by subsections (a) and (b) of section 3682 of title 39, United States Code, as in effect on the day prior to the effective date of this section [Aug. 24, 1982], shall remain in effect until changed pursuant to section 3682 of such title, as amended, by subsection (a) of this section.”

## EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96-70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

**§ 3683. Uniform rates for books; films; other materials**

(a) Notwithstanding any other provision of this title, the rates of postage established for mail matter enumerated in former section 4554 of this title shall be uniform for such mail of the same weight, and shall not vary with the distance transported.

(b) The rates of postage under former section 4554(b)(1) of this title shall not be effective except with respect to mailings which—

(1) constitute materials specified in former section 4554(b)(2) of this title; and

(2) are sent between—

(A) an institution, organization, or association listed in subparagraph (A) or (B) of such former section 4554(b)(1) and any other such institution, organization, or association;

(B) an institution, organization, or association referred to in subparagraph (A) and any individual (other than an individual having a financial interest in the sale, promotion, or distribution of the materials involved);

(C) an institution, organization, or association referred to in subparagraph (A) and a qualified nonprofit organization (as defined in former section 4452(d) of this title) that is not such an institution, organization, or association; or

(D) an institution, organization, or association referred to in subparagraph (A) and a publisher, if such institution, organization, or association has placed an order to purchase such materials for delivery to such institution, organization, or association.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 765; Pub. L. 94-421, §12, Sept. 24, 1976, 90 Stat. 1312; Pub. L. 103-123, title VII, §706(a), Oct. 28, 1993, 107 Stat. 1272.)

## REFERENCES IN TEXT

Former sections 4452 and 4554 of this title, referred to in text, mean sections 4452 and 4554 of former Title 39, The Postal Service, prior to the general revision and reenactment of Title 39 by Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 719.

## AMENDMENTS

1993—Subsec. (b). Pub. L. 103-123 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The rates for mail matter specified in former section 4554(a)(1) or 4554(b)(2)(A) of this title, when mailed from a publisher or a distributor to a school, college, university, or library, shall be the rate cur-

rently in effect for such mail matter under the provisions of former section 4554(b)(1) of this title.”

1976—Pub. L. 94-421 designated existing provisions as subsec. (a) and added subsec. (b).

## EFFECTIVE DATE OF 1993 AMENDMENT

Section 706(b) of Pub. L. 103-123 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to mail sent after September 30, 1993.”

**§ 3684. Limitations**

Except as provided in section 3627 of this title, no provision of this chapter shall be construed to give authority to the Governors to make any change in any provision of section 3682 or 3683 or chapter 30, 32, or 34 of this title.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 765; Pub. L. 99-410, title II, §201(b)(4), Aug. 28, 1986, 100 Stat. 929.)

## AMENDMENTS

1986—Pub. L. 99-410 struck out “, or of the Federal Voting Assistance Act of 1955” after “or 34 of this title”.

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-410 applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99-410, set out as an Effective Date note under section 1973ff of Title 42, The Public Health and Welfare.

**§ 3685. Filing of information relating to periodical publications**

(a) Each owner of a publication having periodical publication mail privileges shall furnish to the Postal Service at least once a year, and shall publish in such publication once a year, information in such form and detail and at such time as the Postal Service may require with respect to—

(1) the identity of the editor, managing editor, publishers, and owners;

(2) the identity of the corporation and stockholders thereof, if the publication is owned by a corporation;

(3) the identity of known bondholders, mortgagees, and other security holders;

(4) the extent and nature of the circulation of the publication, including, but not limited to, the number of copies distributed, the methods of distribution, and the extent to which such circulation is paid in whole or in part; and

(5) such other information as the Postal Service may deem necessary to determine whether the publication meets the standards for periodical publication mail privileges.

The Postal Service shall not require the names of persons owning less than 1 percent of the total amount of stocks, bonds, mortgages, or other securities.

(b) Each publication having such mail privileges shall furnish to the Postal Service information in such form and detail, and at such times, as the Postal Service requires to determine whether the publication continues to qualify for such privileges.

(c) The Postal Service shall make appropriate rules and regulations to carry out the purposes